

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHEASTERN DIVISION

Branden Thurman Clark,

Petitioner,

vs.

Leann Bertsch,

Respondent.

**ORDER ADOPTING
REPORT AND RECOMMENDATION**

Civil File No. 3:10-cv-67

Before the Court is Petitioner's application to proceed *in forma pauperis*. The Court has received a Report and Recommendation (Doc. #3) from the Honorable Karen K. Klein, United States Magistrate Judge, pursuant to 28 U.S.C. § 636, recommending that Petitioner's application to proceed *in forma pauperis* be denied. No party has filed an objection to this recommendation within the requisite time period pursuant to Rule 72(a) and (b), Federal Rules of Civil Procedure, and District of North Dakota Local Court Rule 72.1(d)(2) and (3).

The Court has reviewed the Report and Recommendation, along with the entire file, and finds that the Magistrate Judge's position is correct. Accordingly, the Court hereby adopts the Report and Recommendation in its entirety. Petitioner has until October 22, 2010 to pay the \$5.00 filing fee or his habeas petition under 28 U.S.C. § 2254 will be dismissed.

For the reasons set forth herein, the Petitioner's application to proceed *in forma pauperis* is **DENIED**.

IT IS SO ORDERED.

Dated this 26th day of August, 2010.

/s/ Ralph R. Erickson
Ralph R. Erickson, Chief District Judge
United States District Court